

SUPREME COURT OF ARIZONA

In the Matter of ) Arizona Supreme Court  
 ) No. R-18-0035  
RULE 15.3(a), RULES OF CRIMINAL )  
PROCEDURE )  
 ) **FILED 10/24/2018**  
 )  
 )  
 )

## ORDER

AMENDING RULE 15.3(a), ARIZONA RULES OF CRIMINAL PROCEDURE ON AN  
EMERGENCY BASIS

A petition having been filed proposing language in Criminal Rule 15.3(a) altered during restyling from "victim" to "those excluded by Rule 39(b)" to allow prosecutors to seek depositions of crime victims who are unavailable to testify at trial and the petition having included a request for expedited consideration, after consideration by the Court,

**IT IS ORDERED** granting expedited consideration. Rule 15.3(a), Arizona Rules of Criminal Procedure, is amended on an emergency basis under Rule 28(G), Rules of the Supreme Court of Arizona, effective immediately in accordance with the attachment to this order. This Court will consider whether to make this amendment permanent during its rules agenda in August or September 2019.

**IT IS FURTHER ORDERED** opening the rule petition for comment, with comments due May 1, 2019 and any reply due by June 3, 2019, in accordance with Rule 28(G)(2), Rules of the Supreme Court of Arizona. Comments may be submitted on the [Court Rules Forum](#) as described in

the [FAQs](#).

DATED this 24<sup>th</sup> day of October 2018.

/s/

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CLINT BOLICK  
Duty Justice

TO:  
Rule 28 Distribution  
Elizabeth B Ortiz

**ATTACHMENT\***

(language to be removed is shown in ~~striketrough~~, new language is underlined)

**Arizona Rules of Criminal Procedure**

**Rule 15.3. Depositions**

**(a) Availability.** A party or a witness may file a motion requesting the court to order the examination of any person, except the defendant and ~~a victim~~ those excluded by Rule 39(b), by oral deposition under the following circumstances:

(1) a party shows that the person's testimony is material to the case and that there is substantial likelihood that the person will not be available at trial; or

(2) a party shows that the person's testimony is material to the case or necessary to adequately prepare a defense or investigate the offense, that the person was not a witness at the preliminary hearing or at the probable cause phase of the juvenile transfer hearing, and that the person will not cooperate in granting a personal interview; or

(3) a witness is incarcerated for failing to give satisfactory security that the witness will appear and testify as a trial or hearing.